FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Misc. Civil Application No. 557/2007 in
Writ Petition No. 837/2007 (decided)

Shankarlal s/o Lakhiram Paniya
..vs..
The State of Maharashtra, through its Secretary and 3 ors.

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's orders.	Court's or Judge's Orders

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Mr. F. T. Mirza, Advocate for the applicant,
Mr. A. M. Deshpande, A. G. P. for non applicant Nos. 1, 2 and 4
Mr. D. M. Kale, Advocate for non applicant No. 3.

CORAM: A. H. JOSHI & R. C. CHAVAN, JJ.
DATED : 2nd July, 2007

1. Heard learned Advocate Mr. F. T. Mirza, for the applicant, learned A.G.P. Mr. A. M. Deshpande, for non applicant Nos. 1, 2 and 4 and leaned Advocate Mr. D. M. Kale for non applicant No. 3.

2. The learned Advocate Mr. Mirza, had urged that when Hon'ble Apex Court has dismissed Special Leave Petition, which was filed against order passed by this Court in Writ Petition No. 837/2007, Hon'ble Supreme Court gave liberty to apply for clarification that the petitioner had not given certain admission.

3. Operative part of order of Hon'ble Supreme Court passed in Special Leave Petition as is seen from the copy of order reads as

follows:-

"UPON hearing counsel the Court made the following order.

In view of the observation of the High Court in para 9 of the impugned order, we find no scope for interference. The special leave petition is dismissed.

Learned counsel for the petitioner states that an appropriate application shall be filed before the High Court to clarify that there was no admission."

4. Mr. Mirza, therefore, argued that the petitioner is entitled to apply for review of the judgment of this Court on the ground referred in Hon'ble Supreme Court's order as well as on other grounds.

5. Apparently, in view of said purported liberty, the petitioner seeks review and modification of judgment of this Court rendered in Writ Petition No. 837/2007.

6. The ground pressed in service for review is that the Government Resolution dated 1st April, 1997, referred to at page No. 41 in the decision of Caste Scrutiny Committee, was already cancelled by the Government. The order of the Scrutiny Committee, which is based on said non existing policy decision of the State needs to be set aside. According to learned Adv. Mirza, this is a sufficient ground for review and, therefore, the judgment, which is rendered by this Court, upholding the decision of the Scrutiny

Committee, deserves to be recalled or set aside, and the case needs to be remanded back to the Scrutiny Committee for hearing and disposal, according to law.

7. We find that the Scrutiny Committee had referred to the above referred Government Resolution as one of the amongst grounds. This Court, however, while scrutinising the legality and validity of the judgment of the Scrutiny Committee, had examined entire merits of the case. This Court's judgment under review is not based on the said Government Resolution, which Government Resolution, according to the petitioner, is not in existence. Therefore, we find that the prayer for review on this ground is wholly misplaced and cannot be considered.

8. Learned Advocate Mr. Mirza then submitted that in the para 9 of the order passed by this Court on 12.03.2007, while referring to the findings of Scrutiny Committee, this Court has observed as follows :-

"*On his admission that he does not belong to Sonar caste in Maharashtra.*"

According to learned Advocate Mr. Mirza, no such admission is on record of Scrutiny Committee and hence this sentence needs to be suitably clarified.

9. We have heard learned Adv. Mirza and also perused the

judgment of the Scrutiny Committee. We are satisfied that sentence quoted in foregoing para needs slight correction to appropriately represent what this Court had noted from the decision of the Committee. We, therefore, direct that in the fifth line in paragraph 9 of the order, the word '***admission***' be substituted by word '***admittedly on what is shown by the petitioner***' and in fifth line, after the words '***that he***' and before the words '***belong to***' words , '***is a refugee-Sindhi and hence he***' be substituted.

10. With the above clarification, the application for review is disposed of with order as in para 9 above.

JUDGE **JUDGE**

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